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penalties may be applicable, as provided by under 19 U.S.C. 1459, in addition to other penalties applicable under other provisions of law.

[T.D. 93-96, 58 FR 67317, Dec. 21, 1993; 59 FR 1918, Jan. 13, 1994]

FOREIGN CLEARANCES

§ 4.60 Vessels required to clear.

(a) Unless specifically excepted by law, the following vessels must obtain clearance from CBP before departing from a port or place in the United States:

(1) All vessels departing for a foreign port or place;

(2) All foreign vessels departing for another port or place in the United States;

(3) All American vessels departing for another port or place in the United States that have foreign merchandise for which entry has not been made; and

(4) All vessels departing for points outside the territorial sea to visit a hovering vessel or to receive merchandise or passengers while outside the territorial sea, as well as foreign vessels delivering merchandise or passengers while outside the territorial sea.

(b) The following vessels are not required to clear:

(1) A documented vessel with a pleasure license endorsement or an undocumented American pleasure vessel (i.e., an undocumented vessel wholly owned by a United States citizen or citizens, whether or not it has a certificate of number issued by the State in which the vessel is principally used under 46 U.S.C. 1466-1467 and not engaged in trade nor violating the customs or navigation laws of the United States and not having visited any hovering vessel (see 19 U.S.C. 1709(d)).

(2) A vessel exempted from entry by section 441, Tariff Act of 1930. (See § 4.5.)

(3) A vessel of less than 5 net tons which departs from the United States to proceed to a contiguous country otherwise than by sea.

(c) Vessels which will merely transit the Panama Canal without transacting any business there will not be required to be cleared because of such transit.

(d) In the event that departure is delayed beyond the second day after clearance, the delay must be reported within 72 hours after clearance to the port director who will note the fact of detention on the certificate of clearance and on the official record of clearance. When the proposed voyage is canceled after clearance, the reason therefor must be reported in writing within 24 hours after such cancellation and the certificate of clearance and related papers must be surrendered.

(e) No vessel will be cleared for the high seas *except*, a vessel bound to another vessel on the high seas to—

(1) Transship export merchandise which it has transported from the U.S. to the vessel on the high seas; or

(2) Receive import merchandise from the vessel on the high seas and transport the merchandise to the U.S.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 85-91, 50 FR 21429, May 24, 1985; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 00-4, 65 FR 2873, Jan. 19, 2000; CBP Dec. 08-25, 73 FR 40725, July 16, 2008; CBP Dec. 10-33, 75 FR 69585, Nov. 15, 2010]

§ 4.61 Requirements for clearance.

(a) *Application for clearance.* A clearance application for a vessel intending to depart for a foreign port must be made by filing Customs Form 1300 (Vessel Entrance or Clearance Statement) executed by the vessel master or other proper officer. The master, licensed deck officer, or purser may appear in person to clear the vessel, or the properly executed Customs Form 1300 may be delivered to the customhouse by the vessel agent or other personal representative of the master. Necessary information may also be transmitted electronically pursuant to a system authorized by Customs. Clearance will be granted by Customs either on the Customs Form 1300 or by approved electronic means. Customs port directors may permit the clearance of vessels at locations other than the customhouse, and at times outside of normal business hours. Customs may take local resources into consideration in allowing clearance to be transacted on board vessels themselves or at other mutually convenient sites and times

either within or outside of port limits. Customs must be satisfied that the place designated for clearance is sufficiently under Customs control at the time of clearance, and that the expenses incurred by Customs will be reimbursed as authorized. Customs may require that advance notice of vessel departure be given prior to granting requests for optional clearance locations.

(b) *When clearance required.* Under certain circumstances, American vessels departing from ports of the United States directly for other United States ports must obtain Customs clearance. The clearance of such vessels is required when they have merchandise aboard which is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel clearance requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with usual clearance procedures, American vessels carrying no unentered foreign merchandise but that have in-bond merchandise aboard may satisfy vessel clearance requirements by reporting intended departure within 72 hours prior thereto by any means of communication that is satisfactory to the local Customs port director, and by presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement). Also, the Customs officer may require the production of any documents or papers deemed necessary for the proper inspection/examination of the vessel, cargo, passenger, or crew. Report of departure together with providing information to Customs as specified in this paragraph satisfies all clearance requirements for the subject vessels.

(c) *Verification of compliance.* Before clearance is granted to a vessel bound to a foreign port as provided in § 4.60 and this section, the port director will verify compliance with respect to the following matters:

- (1) Accounting for inward cargo (see § 4.62).
- (2) Outward Cargo Declarations; ships export declarations (see § 4.63).
- (3) Documentation (see § 4.0(c)).

(4) Verification of nationality and tonnage (see § 4.65).

(5) Verification of inspection (see § 4.66).

(6) Inspection under State laws (46 U.S.C. App. 97).

(7) Closed ports or places (see § 4.67).

(8) Passengers (see § 4.68).

(9) Shipping articles and enforcement of Seamen's Act (see § 4.69).

(10) Medicine and slop chests.

(11) Load line regulations (see § 4.65a).

(12) Carriage of United States securities, etc. (46 U.S.C. App. 98).

(13) Carriage of mail.

(14) Public Health regulations (see § 4.70).

(15) Inspection of vessels carrying livestock (see § 4.71).

(16) Inspection of meat, meat-food products, and inedible fats (see § 4.72).

(17) Neutrality exportation of arms and munitions (see § 4.73).

(18) Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100).

(19) Orders restricting shipping (see § 4.74).

(20) Estimated duties deposited or a bond given to cover duties on foreign repairs and equipment for vessels of the United States (see § 4.14).

(21) Illegal discharge of oil (see § 4.66a).

(22) Attached or arrested vessel.

(23) Immigration laws.

(24) Electronic receipt of required vessel cargo information (see § 192.14(c) of this chapter).

(d) *Vessel built for foreign account.* A new vessel built in the United States for foreign account will be cleared under a certificate of record, Coast Guard Form 1316, in lieu of a marine document.

(e) *Clearance not granted.* Clearance will not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel (22 U.S.C. 454a).

(f) *Clearance in order of itinerary.* Unless otherwise provided in this section, every vessel bound for a foreign port or ports will be cleared for a definite port or ports in the order of its itinerary, but an application to clear for a port or

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place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

[T.D. 00–4, 65 FR 2874, Jan. 19, 2000; T.D. 00–22, 65 FR 16515, Mar. 29, 2000; CBP Dec. 03–32, 68 FR 68169, Dec. 5, 2003]

§ 4.62 Accounting for inward cargo.

Inward cargo discrepancies shall be accounted for and adjusted by correction of the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, but the vessel may be cleared and the adjustment deferred if the discharging officer's report has not been received. (See § 4.12.)

[T.D. 77–255, 42 FR 56322, Oct. 25, 1977, as amended by T.D. 84–193, 49 FR 35485, Sept. 10, 1984]

§ 4.63 Outward cargo declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see § 4.87(b)), unless there has been filed with the appropriate Customs officer at the port from which clearance is being sought:

(1) A Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A. Copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest must be attached in such manner as to constitute one document, together with a Vessel Entrance or Clearance Statement, Customs Form 1300, and export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce; or

(2) An incomplete Cargo Declaration as provided for in § 4.75.

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, in the marginal column headed “B/L No.” If an export declaration is not required for a shipment, a notation shall be made on the Cargo Declaration Out-

ward With Commercial Forms (Customs Form 1302–A) describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see 15 CFR 30.39, 30.50 through 30.57) where the particular exemption is provided. If shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial documents is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required.

(c) The following minimal information shall be included on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A (other information required to be on a Customs Form 1302–A as shown on the form itself must also be included thereon) or on attached copies of bills of lading or equivalent commercial documents:

- (1) Name and address of shipper;
- (2) Description of the cargo (see paragraph (d) of this section);
- (3) Number of packages and gross weight (see paragraph (d) of this section);
- (4) Name of vessel or carrier;
- (5) Port of exit (this shall be the port where the merchandise is loaded on the vessel); and
- (6) Port of destination (this shall be the foreign port of discharge of the merchandise).

(d) If the bills of lading or equivalent commercial documents attached to the Customs Form 1302–A show on their face the cargo information required by columns 6, 7, and either column 8 or 9, of the Customs Form 1302–A, that information need not be shown again on the Customs Form 1302–A. However, in that case, the cargo information must be incorporated by a suitable reference on the face of the Customs Form 1302–A such as “Cargo as per attached commercial documents.”

(e) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, or commercial document attached to the Cargo Declaration and made a part thereof in accordance with paragraph (a)(1) of this section, shall clearly show for such shipment the number, date, and class of such Customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I. E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the merchandise is laden for exportation.

(f) Customs officers shall accept a Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see § 4.7a(c)(3)) that the declaration has been prepared on the basis of information furnished by the shipper.

[T.D. 84-193, 49 FR 35484, Sept. 10, 1984; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

§ 4.64 Electronic passenger and crew member departure manifests.

(a) *Definitions.* The definitions contained in § 4.7b(a) also apply for purposes of this section.

(b) *Electronic departure manifest*—(1) *General requirement.* Except as provided in paragraph (c) of this section, an appropriate official of each commercial vessel departing from the United States to any port or place outside the United States must transmit to Customs and Border Protection (CBP) an electronic passenger departure manifest and an electronic crew member departure manifest. Each electronic departure manifest:

(i) Must be transmitted to CPB at the place and time specified in paragraph (b)(2) of this section by means of an electronic data interchange system approved by CBP. If the transmission is in US EDIFACT format, the passenger manifest and the crew member manifest must be transmitted separately; and

(ii) Must set forth the information specified in paragraph (b)(3) of this section.

(2) *Place and time for submission*—(i) *General requirement.* The appropriate of-

ficial must transmit each electronic departure manifest required under paragraph (b)(1) of this section to the CBP Data Center, CBP Headquarters, no later than 60 minutes before the vessel departs from the United States.

(ii) *Amended crew member manifests.* If a crew member boards the vessel after submission of the manifest under paragraph (b)(2)(i) of this section, the appropriate official must transmit amended manifest information to CBP reflecting the data required under paragraph (b)(3) of this section for the additional crew member. The amended manifest information must be transmitted to the CBP Data Center, CBP Headquarters, no later than 12 hours after the vessel has departed from the United States.

(3) *Information required.* Each electronic departure manifest required under paragraph (b)(1) of this section must contain the following information for all passengers and crew members, except that the information specified in paragraphs (b)(3)(iv), (ix), (xi), (xv), and (xvi), of this section must be included on the manifest only on or after October 4, 2005:

- (i) Full name (last, first, and, if available, middle);
- (ii) Date of birth;
- (iii) Gender (F = female; M = male);
- (iv) Citizenship;
- (v) Status on board the vessel;
- (vi) Travel document type (e.g., P = passport; A = alien registration card);
- (vii) Passport number, if a passport is required;
- (viii) Passport country of issuance, if a passport is required;
- (ix) Passport expiration date, if a passport is required;
- (x) Alien registration number, where applicable;
- (xi) Passenger Name Record locator, if available;
- (xii) Departure port code (CBP port code);
- (xiii) Port/place of final arrival (foreign port code);
- (xiv) Vessel name;
- (xv) Vessel country of registry/flag;
- (xvi) International Maritime Organization number or other official number of the vessel;

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(xvii) Voyage number (applicable only for multiple departures on the same calendar day); and

(xviii) Date of vessel departure.

(c) *Exceptions.* The electronic departure manifest requirement specified in paragraph (b) of this section is subject to the following conditions:

(1) No passenger or crew member departure manifest is required if the departing commercial vessel is operating as a ferry;

(2) If the departing commercial vessel is not transporting passengers, only a crew member departure manifest is required;

(3) No passenger departure manifest is required for active duty U.S. military personnel on board a departing Department of Defense commercial chartered vessel.

(d) *Carrier responsibility for comparing information collected with travel document.* The carrier collecting the information described in paragraph (b)(3) of this section is responsible for comparing the travel document presented by the passenger or crew member with the travel document information it is transmitting to CBP in accordance with this section in order to ensure that the information is correct, the document appears to be valid for travel purposes, and the passenger or crew member is the person to whom the travel document was issued.

(e) *Sharing of manifest information.* Information contained in passenger and crew member manifests that is received by CBP electronically may, upon request, be shared with other Federal agencies for the purpose of protecting national security. CBP may also share such information as otherwise authorized by law.

[CBP Dec. 05–12, 70 FR 17851, Apr. 7, 2005, as amended by CBP Dec. 07–64, 72 FR 48342, Aug. 23, 2007]

§ 4.65 Verification of nationality and tonnage.

The nationality and tonnage of a vessel shall be verified by examination of its marine document. If such examination discloses that insufficient tonnage tax was collected on entry of the vessel, no clearance shall be granted until the deficiency is paid.

§ 4.65a Load lines.

(a) If a port director is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel engaged in the foreign trade under the International Voyage Load Line Act of 1973, clearance shall not be granted until the order is withdrawn.

(b) If a port director issues a detention order under the Coastwise Load Line Act, 1935, as amended, or is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel under the aforesaid Act, clearance shall not be granted until the order is withdrawn.

[T.D. 75–133, 40 FR 24518, June 9, 1975]

§ 4.66 Verification of inspection.

(a) No clearance shall be granted unless the port director is satisfied that a proper certificate of inspection is in force and the vessel is in compliance with such certificate, if the vessel is:

(1) A vessel of the United States required to be inspected as specified in Title 46, Code of Federal Regulations.

(2) A foreign vessel carrying passengers from the United States.

(b) In the case of vessels of foreign nations which are signatories of the International Convention for the Safety of Life at Sea, 1948, carrying passengers from the United States, an unexpired Certificate of Examination for Foreign Passenger Vessel, Form CG–989, or an unexpired Certificate for Foreign Vessel to Carry Persons in Addition to Crew, Form CG–3463, issued by the United States Coast Guard, may be accepted as evidence that a proper certificate of inspection is in force and the vessel is in compliance with such certificate.

(c) In the case of vessels of the United States subject to inspection proceeding to another port for repairs, a valid Permit to Proceed to Another Port for Repairs, Form CG–948, issued by the United States Coast Guard, shall be accepted in lieu of the certificate of inspection required by this section.

[T.D. 56173, 29 FR 6681, May 22, 1964, as amended by T.D. 69–266, 34 FR 20422, Dec. 31, 1969]

§ 4.66a Illegal discharge of oil and hazardous substances.

If a port director receives a request from an officer of the U.S. Coast Guard to withhold clearance of a vessel whose owner or operator is subject to a civil penalty for discharging oil or a hazardous substance into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in quantities determined to be harmful by appropriate authorities, such clearance shall not be granted until the port director is informed that a bond or other surety satisfactory to the Coast Guard has been filed.

[T.D. 82-28, 47 FR 5226, Feb. 4, 1982]

§ 4.66b Pollution of coastal and navigable waters.

(a) If any Customs officer has reason to believe that any refuse matter is being or has been deposited in navigable waters or any tributary of any navigable waters in violation of section 13 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), or oil or a hazardous substance is being or has been discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in violation of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1321), he shall promptly furnish to the port director a full report of the incident, together with the names of witnesses and, when practicable, a sample of the material discharged from the vessel in question.

(b) The port director shall forward this report immediately, without recommendation, to the district commander of the Coast Guard district concerned and a copy of such report shall be furnished to Headquarters, U.S. Customs Service.

[T.D. 73-18, 38 FR 1587, Jan. 16, 1973, as amended by T.D. 82-28, 47 FR 5226, Feb. 4, 1982]

§ 4.66c Oil pollution by oceangoing vessels.

(a) If a port director receives a request from a Coast Guard officer to refuse or revoke the clearance or permit to proceed of a vessel because the

vessel, its owner, operator, or person in charge, is liable for a fine or civil penalty, or reasonable cause exists to believe that they may be subject to a fine or civil penalty under the provisions of 33 U.S.C. 1908 for violating the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol), the Act to Prevent Pollution from Ships, 1980 (33 U.S.C. 1901-1911), or regulations issued thereunder, such clearance or a permit to proceed shall be refused or revoked. Clearance or a permit to proceed may be granted when the port director is informed that a bond or other security satisfactory to the Coast Guard has been filed.

(b) If a port director receives a notification from a Coast Guard officer that an order has been issued to detain a vessel required to have an International Oil Pollution Prevention (IOPP) Certificate which does not have a valid certificate on board, or whose condition or whose equipment's condition does not substantially agree with the particulars of the certificate on board, or which presents an unreasonable threat of harm to the marine environment, the port director shall refuse or revoke the clearance or permit to proceed of the vessel if requested to do so by a Coast Guard officer. The port director shall not grant clearance or issue a permit to proceed to the vessel until notified by a Coast Guard officer that detention of the vessel is no longer required.

(c) If a port director receives a notification from a Coast Guard officer to detain a vessel operated under the authority of a country not a party to the MARPOL Protocol which does not have a valid certificate on board showing that the vessel has been surveyed in accordance with and complies with the requirements of the MARPOL Protocol, or whose condition or whose equipment's condition does not substantially agree with the particulars of the certificate on board, or which presents an unreasonable threat of harm to the marine environment, the port director shall refuse or revoke the clearance or permit to proceed of the vessel if requested to do so by a Coast Guard officer. The port director shall not grant clearance or issue a permit

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to proceed to the vessel until notified by a Coast Guard officer that detention of the vessel is no longer required.

[T.D. 81-148, 49 FR 28695, July 16, 1984]

§4.67 Closed ports or places.

No foreign vessel shall be granted a clearance or permit to proceed to any port or place from which such vessels are excluded by orders or regulations of the United States Navy Department except with the prior approval of that Department.

§4.68 Federal Maritime Commission certificates for certain passenger vessels.

No vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports will be granted a clearance at the port or place of departure from the United States unless it is established that the vessel has valid certificates issued by the Federal Maritime Commission.

[T.D. 00-4, 65 FR 2874, Jan. 19, 2000]

§4.69 Shipping articles.

No vessel of the U.S. on a voyage between a U.S. port and a foreign port (except a port in Canada, Mexico, or the West Indies), or if of at least 75 gross tons, on a voyage between a U.S. port on the Atlantic Ocean and a U.S. port on the Pacific Ocean, shall be granted clearance before presentation, to the appropriate Customs officer, of the shipping articles agreements, including any seaman's allotment agreement, required by 46 U.S.C. chapter 103, in the form provided for in 46 CFR 14.05-1.

[T.D. 92-52, 57 FR 23945, June 5, 1992]

§4.70 Public Health Service requirements.

No clearance will be granted to a vessel subject to the foreign quarantine regulations of the Public Health Service.

[T.D. 00-4, 65 FR 2874, Jan. 19, 2000]

§4.71 Inspection of livestock.

A proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection

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Service, Department of Agriculture, shall be filed before the clearance of a vessel carrying horses, mules, asses, cattle, sheep, swine, or goats (9 CFR part 91)

[T.D. 79-32, 44 FR 5650, Jan. 29, 1979]

§4.72 Inspection of meat, meat-food products, and inedible fats.

(a) No clearance shall be granted to any vessel carrying meat or meat-food products, as defined and classified by the U.S. Department of Agriculture, Food Safety and Inspection Service, Meat and Poultry Inspection until there have been filed with the port director such copies of export certificates concerning such meat or meat-food products as are required by the pertinent regulations of the U.S. Department of Agriculture, Food Safety and Inspection Service, Meat and Poultry Inspection (9 CFR part 322). If such certificate has been obtained but is unavailable at the scheduled time of a vessel's departure, the vessel may be cleared on the basis of the receipt of a statement, under the shipper's or shipper's agent's letterhead, certifying the number of boxes, the number of pounds, the product name and the U.S. Department of Agriculture export certificate number that covers the shipment of the product. If such statement has been used as the basis for obtaining vessel clearance, the duplicate of the certificate must be filed with Customs within the time period prescribed by §4.75.

(b) No clearance shall be granted to any vessel carrying tallow, stearin, oleo oil, or other rendered fat derived from cattle, sheep, swine, or goats for export from the United States, which has not been inspected, passed, and marked by the United States Department of Agriculture, unless the port director is furnished with a certificate by the exporter that the article is inedible.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 78-99, 43 FR 13059, Mar. 29, 1978; T.D. 91-77, 56 FR 46114, Sept. 10, 1991; T.D. 95-54, 60 FR 35838, July 12, 1995]

§ 4.73 Neutrality; exportation of arms and munitions.

(a) Clearance shall not be granted to any vessel if the port director has reason to believe that her departure or intended voyage would be in violation of any provision of the Neutrality Act of 1939 or other neutrality law of the United States,¹⁰⁴ or of any regulation or instruction issued pursuant to any such law.

(b) The port director shall refuse clearance for and detain any vessel manifestly built for warlike purposes and about to depart from the United States with a cargo consisting principally of arms and munitions of war¹⁰⁵ when the number of men intending to sail or other circumstances render it probable that the vessel is intended to commit hostilities against the subjects, citizens, or property or any foreign country, with which the United States is at peace, until the decision of the President thereon is received, or until the owners shall have given bond or security in double the value of the vessel and its cargo that she will not be so employed.

(c) A port director shall promptly communicate all the facts to Headquarters, U.S. Customs Service, if he learns while the United States is at peace that any vessel of a belligerent power which has arrived as a merchant vessel is altering, or will attempt to alter, her status as a merchant vessel so as to become an armed vessel or an auxiliary to armed vessels of a foreign power.

(d) If a port director has reason to believe during the existence of a war to which the United States is not a party that any vessel at his port is about to carry arms, munitions, supplies, dispatches, information, or men to any warship or tender or supply ship of a belligerent nation, he shall withhold the clearance of such vessel and report the facts promptly to Headquarters, U.S. Customs Service.

¹⁰⁴ See 18 U.S.C. 961 through 967 and 22 U.S.C. 441 through 457.

¹⁰⁵ Clearance for vessel shall not be denied for the sole reason that her cargo contains contraband of war.

¹⁰⁶⁻¹¹⁰ [Reserved]

§ 4.74 Transportation orders.

Clearance shall not be granted to any vessel if the port director has reason to believe that her departure or intended voyage would be in violation of any provision of any transportation order, regulation, or restriction issued under authority of the Defense Production Act of 1950 (50 U.S.C. App. 2061-2066).

§ 4.75 Incomplete manifest; incomplete export declarations; bond.

(a) *Pro forma manifest.* Except as provided for in § 4.75(c), if a master desiring to clear his vessel for a foreign port does not have available for filing with the port director a complete Cargo Declaration Outward with Commercial Forms, Customs Form 1302-A (see § 4.63) in accordance with 46 U.S.C. 91, or all required shipper's export declarations (see 15 CFR 30.24), the port director may accept in lieu thereof an incomplete manifest (referred to as a *pro forma manifest*) on the Vessel Entrance or Clearance Statement, Customs Form 1300, if there is on file in his office a bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, executed by the vessel owner or other person as attorney in fact of the vessel owner. The "Incomplete Manifest for Export" box in item 17 of the Vessel Entrance or Clearance Statement form must be checked.

(b) *Time in which to file complete manifest and export declarations.* Not later than the fourth business day after clearance from each port in the vessel's itinerary, the master, or the vessel's agent on behalf of the master, shall deliver to the director of each port a complete Cargo Declaration Outward with Commercial Forms, Customs Form 1302-A, in accordance with § 4.63, of the cargo laden at such port together with duplicate copies of all required shipper's export declarations for such cargo and a Vessel Entrance or Clearance Statement, Customs Form 1300. The statutory grace period of 4 days for filing the complete manifest and missing export declarations begins to run on the first day (exclusive of any day on which the customhouse is not open for marine business) following the date on which clearance is granted.

(c) *Countries for which vessels may not be cleared until complete manifests and shipper's export declarations are filed.* To aid the Customs Service in the enforcement of export laws and regulations, no vessel shall be cleared for any port in the following countries until a complete outward foreign manifest and all required shipper's export declarations have been filed with the port director:

Albania	Laos
Bulgaria	Latvia
Cambodia	Libya
China, People's	Lithuania
Republic of	Mongolian People's
Cuba	Republic
Czechoslovakia	North Korea
Estonia	Polish People's
German Democratic	Republic (Including
Republic (Soviet	Danzig)
Zone of Germany	Rumania
and Soviet Zone	South Yemen
sector of Berlin)	Union of Soviet
Hungary	Socialist Republics
Iran	Viet Nam
Iraq	

[T.D. 87–1, 52 FR 255, Jan. 5, 1987, as amended by T.D. 91–60, 56 FR 32085, July 15, 1991; T.D. 00–22, 65 FR 16515, Mar. 29, 2000]

§4.76 Procedures and responsibilities of carriers filing outbound vessel manifest information via the AES.

(a) *The sea carrier's module.* The Sea Carrier's Module is a component of the Automated Export System (AES) (*see*, part 192, subpart B, of this chapter) that allows for the filing of outbound vessel manifest information electronically (*see*, 15 CFR part 30). All sea carriers are eligible to apply for participation in the Sea Carrier's Module. Application and certification procedures for AES are found at 15 CFR 30.60. A sea carrier certified to use the module that adheres to the procedures set forth in this section and the Census Regulations (15 CFR part 30) concerning the electronic submission of an outbound vessel manifest information meets the outward cargo declaration filing requirements (CF 1302–A) of §§4.63 and 4.75, except as otherwise provided in §§4.75 and 4.84.

(b) *Responsibilities.* The performance requirements and operational standards and procedures for electronic submission of outbound vessel manifest information are detailed in the AES Trade Interface Requirements hand-

book (available on the Customs internet web site (www.customs.gov)). Carriers and their agents are responsible for reporting accurate and timely information and for responding to all notifications concerning the status of their transmissions and the detention and release of freight in accordance with the procedures set forth in the AES Trade Interface Requirements handbook. Customs will send messages to participant carriers regarding the accuracy of their transmissions. AES participants are required to comply with the recordkeeping requirements contained at §30.66 of the Census Regulations (15 CFR 30.66) and any other applicable recordkeeping requirements. Where paper SEDs have been submitted by exporters prior to departure, participant carriers will be responsible for submitting those SEDs to Customs within four (4) business days after the departure of the vessel from each port, unless a different time requirement is specified by §§4.75 or 4.84. Upon written agreement with participant sea carriers, Customs and Census can provide for an alternative to the location filing requirement for paper SEDs set forth in §4.75(b) by which the participant carriers are otherwise bound.

(c) *Messages required to be filed within the sea carrier's module.* Participant carriers will be responsible for transmitting and responding to the following messages:

(1) *Booking.* Booking information identifies all the freight that is scheduled for export. Booking information will be transmitted to Customs via AES for each shipment as far in advance of departure as practical, but no later than seventy-two hours prior to departure for all information available at that time. Bookings received within seventy-two hours of departure will be transmitted to Customs via AES as received;

(2) *Receipt of booking.* When the carrier receives the cargo or portion of the cargo that was booked, the carrier will inform Customs so that Customs can determine if an examination of the cargo is necessary. Customs will notify the carrier of shipments designated for examination. Customs will also notify

the carrier when the shipment designated for inspection is released and may be loaded on the vessel;

(3) *Departure.* No later than the first calendar day following the actual departure of the vessel, the carrier will notify Customs of the date and time of departure; and

(4) *Manifest.* Within ten (10) calendar days after the departure of the vessel from each port, the carrier will submit the manifest information to Customs via AES for each booking loaded on the departed vessel. However, if the destination of the vessel is a foreign port listed in § 4.75(c), the carrier must transmit complete manifest information before vessel departure. Time requirements for transmission of complete manifest information for carriers destined to Puerto Rico and U.S. possessions are the same as the requirement for the submission of the complete manifest as found in § 4.84.

(d) All penalties and liquidated damages that apply to the submission of paper manifests (*see*, applicable provisions in this part) apply to the electronic submission of outbound vessel manifest information through the Sea Carrier's Module.

[T.D. 99-57, 64 FR 40986, July 28, 1999]

COASTWISE PROCEDURE

§ 4.80 Vessels entitled to engage in coastwise trade.

(a) No vessel shall transport, either directly or by way of a foreign port, any passenger or merchandise between points in the United States embraced within the coastwise laws, including points within a harbor, or merchandise for any part of the transportation between such points, unless it is:

(1) Owned by a citizen and is so documented under the laws of the United States as to permit it to engage in the coastwise trade;

(2) Owned by a citizen, is exempt from documentation, and is entitled to or, except for its tonnage, would be entitled to be documented with a coastwise endorsement.

(3) Owned by a partnership or association in which at least a 75 percent interest is owned by such a citizen, is exempt from documentation and is entitled to or, except for its tonnage, or

citizenship of its owner, or both, would be entitled to be documented for the coastwise trade. The term "citizen" for vessel documentation purposes, whether for an individual, partnership, or corporation owner, is defined in 46 CFR 67.3.

(b) *Penalties for violating coastwise laws.* (1) The penalty imposed for the illegal transportation of merchandise between coastwise points is forfeiture of the merchandise or, in the discretion of the port director, forfeiture of a monetary amount up to the value of the merchandise to be recovered from the consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing the merchandise to be transported (46 U.S.C. 883).

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is \$300 for each passenger so transported and landed (46 U.S.C. App. 289, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990).

(c) Any vessel of the United States, whether or not entitled under paragraph (a) of this section to engage in the coastwise trade, and any foreign vessel may proceed between points in the United States embraced within the coastwise laws to discharge cargo or passengers laden at a foreign port, to lade cargo or passengers for a foreign port, in ballast, or to transport certain articles in accordance with § 4.93. Cargo laden at a foreign port may be retained onboard during such movements. Furthermore, certain barges of United States or foreign flag may transport transferred merchandise between points in the United States embraced within the coastwise laws, excluding transportation between the continental United States and a noncontiguous point in the United States embraced within the coastwise laws, in accordance with § 4.81a.

(d) No vessel owned by a corporation which is a citizen of the United States under the Act of September 2, 1958 (46 U.S.C. 12118), shall be used in any trade other than the coastwise and shall not be used in that trade unless it is properly documented for such use or is exempt from documentation and is entitled to or, except for its tonnage, would